IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 523 of 1999

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SAKUNTALABEN CHAMPAKLAL - Petitioner(s)

Versus

KARMACHARINAGAR COOP HOUSING SOCIETY LTD & 1 - Respondent(s)

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Appearance :

MR PM VYAS for Petitioner No(s).: 1.

MS REKHA H KAPADIA for Petitioner No(s).: 1.

MR HIREN P VYAS for Petitioner No(s).: 1.

MR AG VYAS for Respondent No(s).: 1.

RULE SERVED for Respondent No(s).: 2.

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CORAM : HON'BLE MR JUSTICE KS JHAVERI

Date : 14/07/2005

ORAL JUDGMENT

1. This petition is directed against the judgment and order dated 2nd August, 1998 passed by the Labour Court, Ahmedabad in Reference [L.C.A.] No. 144/85,

whereby the said Reference was rejected.

2. The short facts of the case are that the petitioner was working as a clerk with the respondent Society. It is the case of the petitioner that the respondent Society without following any procedure under the Industrial Disputes Act, 1947 has terminated his service w.e.f. 20th November, 1984. Feeling aggrieved by the dismissal order, the petitioner raised an industrial dispute, which was ultimately referred to the Labour Court, Ahmedabad for adjudication. The Labour Court after appreciating the materials produced before it, rejected the said Reference. Hence, this petition.

3. Mr. P.M. Vyas learned advocate for the petitioner has contended that the Labour Court has committed an error in holding that the Co-operative Society is not covered under the definition of Section 2(s) of the Industrial Disputes Act, 1947, and on this ground alone the Labour Court has rejected the Reference.

3.1. In support of his contention Mr. Vyas has placed reliance on the decision of the Apex Court in the case of

reported in A.I.R. 1979 S.C. p. 1203, wherein the Court has held as under :-

> “A dispute raised by an employee of a co-operative society for setting aside his removal from service on the ground that it was an act of victimisation and for reinstatement in service with back wages is not “any dispute” which can be resolved by the Registrar of the Co-operative Societies nor “any dispute” touching the business of the society within contemplation of S.96 of the 1961 Act or S. 54 of the 1925 Act. Consequently, the dispute can be adjudicated upon by the Labour Court alone.”

4. I have heard the learned counsel for the parties. Having perused the materials placed on record and in view of the aforesaid decision, I am of the opinion that the Labour Court while rejecting the Reference has committed an error in not appreciating the fact that the Co-operative Society is covered under Section 2(s) of the Industrial Disputes Act, 1947. However, looking to the facts and circumstances of the case, I am of the opinion that ends of justice would be met if the matter is remanded to the Labour Court for deciding the issue afresh in light of the said Section as well as aforesaid decision.

5. In the premises aforesaid, the award dated 2nd

August, 1998 passed by the Labour Court, Ahmedabad in Reference [L.C.A.] No. 144/85,is quashed and set aside. The matter is remanded to the Labour Court, Ahmedabad for deciding the matter afresh. Since the Reference is of the year 1985, the Labour Court is directed to decide the matter afresh within a period of one year from the date of receipt of writ of this Court. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

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